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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,195	06/03/2002	Hans-Jurgen Hannig	09646-00004	6251

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EXAMINER

GARCIA, ERNESTO

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 12/12/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/019,195

**Applicant(s)**

HANNIG ET AL.

**Examiner**

Ernesto Garcia

**Art Unit**

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address.

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 21-30 is/are pending in the application.
- 4a) Of the above claim(s) 6,7,9 and 21-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,8,29 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 June 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8,9,13.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of species Figure 1-4 in Paper No. 12 is acknowledged. The traversal is on the ground(s) that under PCT Rule 13.4, the rule allows the international application to include dependent claims claiming specific forms of the invention claimed in an independent claim even where the features of any dependent claim could be considered as constituting in themselves an invention. This is not found persuasive because even though this rule allows dependent claims to be included, the rule applies to a single invention or forms of the same invention. Species are considered distinct inventions and not one invention. Applicant is urged to review the Rules below.

Rule 13.4 states: Subject to Rule 13.1, it shall be permitted to include in the same international application a reasonable number of dependent claims, claiming specific forms of the invention claimed in an independent claim, even where the features of any dependent claim could be considered as constituting in themselves an invention.

Rule 13.1 states: The international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention").

Applicant even asserts that the several dependent claims 9 and 21-28 are not specific forms of the elected invention (Figs. 1-4). Applicant is reminded that when a generic claim is allowed because the special technical feature common among the inventions is present in the species then those claims that are subjected to restriction will also be allowed. The requirement is still deemed proper and is therefore made FINAL.

Claims 6, 7, 9 and 21-28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 12. Regarding claims 6 and 7, these claims do not read on the elected Figures 1-4 as projecting detent element (31, 36) are not part of this species but rather part of the species shown in Figures 5 and 5.1.

#### ***Oath/Declaration***

The examiner has noted that the foreign priority is claimed to DE199 29 893.3 while the uncertified copy submitted has a different number DE199 29 896.3.

### ***Drawings***

Applicant is reminded that no drawings were submitted with the application even though a letter asserts submission. The examiner has relied on the application's priority document, WO/01/02670 to rely on the drawings and the drawing objections.

The drawings are objected to because reference character 4c points to different components. Reference character 5f in Figure 2 should point similar as 4f as 5f is also a hook projection. See Figure 1 versus Figures 2 and 3. Furthermore, the fastening system 2 in Figure 1 does not look similar to that of Figures 2 or 3. Figure 1 has sharp edges at 4c while Figures 2 and Fig. 3 have curved edges.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "4" has been used to designate both a panel that has a hook projection 4f that makes a gap L1 with panel 5 (Fig. 2) and a panel that has a hook projection 4f that does not make a gap L1 with panel 5 (Fig. 3); reference character "5" has been used to designate both a panel that has a hook projection 5f that makes a gap L1 with panel 4 (Fig. 2) and a panel that has a hook projection 5f that does not make a gap L1 with panel 4 (Fig. 3); and reference character "12" shows a pocket that is enclosed and a pocket that is not enclosed (Figs 2 and 3).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 5e found in line 13 of claim 1.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the narrow sides of the panels, with a reference character (claim 2), must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

The application does not contain section headings in upper case, without underlining or bold type, as a section heading.

### ***Claim Objections***

Claims 1-5 and 30 are objected to because of the following informalities:

regarding claim 1, the limitation "the" in line 3 should be deleted, "in particular for floor panels" in line 3 should be deleted, the limitation "a panel" in line 4 makes unclear whether the panel is one of the panels recited in line 1 or another panel, the limitation --the-- should be inserted before "oppositely" in line 6, the examiner questions whether the hook elements and the hook projections are the same feature (for examination, the examiner has considered the hook elements and the hook projections to be the same), --the-- in line 10 should --an-- as there is no indication that the panels are assembled; the first occurrence of "the" before "legs" in line 13 should be deleted; furthermore, shouldn't 4f and 28 be the only hook projections and 5f and 29 be the complement projections; the limitation "the" in line 14 should be deleted; lines 14-15 makes unclear whether complementary hook projections bears against each other or one of the projections bears against one of the complementary projections, and furthermore, the limitation "region-wise manner" is an abstract idea as it is not known what constitutes this manner;

regarding claim 2, the limitation "a panel" in line 2 make unclear whether the panel is another panel than the panel recited in line 4; isn't the panel claimed in claim 1 as the retaining profiles are of the panel?; it is unclear whether "a first retaining profile" is another profile than those recited in claim 1 or one of the retaining profiles recited in claim 1; furthermore, it is unclear whether "a leg" in line 3 is another leg or the same leg as indicated in claim 1. The limitation "the" in line 6 should be --an-- and the third occurrence "the" in line 6 should be --a--. If the hook element is arranged at a top of the

panel, which eventually makes the hook element face toward the top, shouldn't the hook projection also be facing toward the top?;

regarding claim 3, the first occurrence of "the" in line 2 should be --an--, and applicant is urged to review this claim as it is unclear, the limitation "vice-versa" is unclear what exactly is this structure; a clearance is a clearance.

regarding claim 4, shouldn't the hook projections engage with the complementary hook projections instead of engaging behind each other?, and the limitation "be" in line 4 should be --by--;

regarding claim 5, the first of occurrence and the third occurrence of --the-- in line 6 should --an--, the fourth occurrence of "the" in line 6 should be --a--, the limitation --of the panels-- should be inserted after "(5)" in line 6, the first occurrence of "the" in line 7 should be --a--, the limitation --of the panels-- should be inserted after "(4)" in line 7, the second occurrence of "the" in line 7 should be --an--, the fourth occurrence of "the" in line 7 should be --a--, the third occurrence of "the" in line 8 should be --a--, the limitation --first-- should be inserted before "panel" in line 9, and shouldn't the hook projection (4f) in line 7 be a complimentary hook projection instead as a panel has a hook projection in a left side of the panel and a complementary hook projection at a right side?; and,

regarding claim 30, this claim cannot be comprehended as the fastening system of claim 1 already claims a panel since the hook projections are of the complementary hook elements, which the complementary hook elements are of the at least one pair of the oppositely disposed retaining profiles, which the profiles are of a panel.

Appropriate correction is required.



***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8, 29 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform to current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

Art Unit: 3679

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by the French patent, 2,278,876 (see marked-up attachment).

Regarding claim 1, as best understood, the French patent discloses in unlabeled figure a fastening system comprising an improvement comprising retaining surfaces **A1** of hook projections **A2** and complementary hook projections **A5** being inclined. The hook projections **A2** are reduced from free ends **A3** towards legs **A4**. One of the hook projections **A2** bears against one of the complementary hook projections **A5**.

Regarding claim 2, as best understood, the hook projections **A2** project are approximately perpendicular from a narrow side and arranged at a top side of a panel **A6**.

Regarding claim 4, as best understood, the retaining surfaces **A1** engage with the complementary hook projections **A5**. Applicant is reminded that the method of engaging the retaining surfaces **A1** with the complementary hook projections **A5** is not germane to the issue of patentability of the device itself. Therefore, this limitation has been given limited patentable weight. See MPEP ' 2113.

Regarding claim 30, the French patent teaches the fastening system in a panel.

Claims 1, 3-5, 8 and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Moriau et al., 6,006,486.

Regarding claim 1, as best understood, Moriau et al. disclose, in Figure 7, a fastening system comprising an improvement comprising retaining surfaces **38,39** of hook projections **33** and complementary hook projections **34** being inclined. The hook projections **33** are reduced from free ends **X1,X2** towards legs **31,43**. One of the hook projections **33** bears against one of the complementary hook projections **34**.

Regarding claim 3, as best understood, one of the hook projections **33** of a first panel (right panel of Fig. 7) of the panels **1**, at a top side **A8**, bears against one leg **43** of the legs **31,43** at a underside **A7** of a second panel (the left panel) of the panels **1**. A clearance **A9** is between the one of the hook projections **33** of the first panel and the one leg **43** of the second panel (left panel).

Regarding claim 4, as best understood, the retaining surfaces **38,39** engage with the complementary hook projections **34**. Applicant is reminded that the method of engaging the retaining surfaces **38,39** with the complementary hook projections **34** is not germane to the issue of patentability of the device itself. Therefore, this limitation has been given limited patentable weight. See MPEP ' 2113.

Art Unit: 3679

Regarding claim 5, as best understood, clearance **A10** is provided between an end of one of the hook projections **33** at an underside **A7** of a second panel (left panel) of panels **1** and the narrow side of a first panel (right panel) of the panels **1**. An end of one of the complementary hook projections **34**, at a top side **A8** of the first panel, bears against the second panel at least in a region of the top side of the first panel.

Regarding claim 8, intermediate spaces, provided by the clearance **A9**, form adhesive pockets.

Regarding claim 29, the panels **1** substantially comprise of an MDF, HDF or chipboard material as part of a material choice (col. 3, lines 26-37).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over the French patent, 2,278,876, in view of Moriau et al., 6,006,486.

Regarding claim 29, the French patent fails to disclose the panels substantially comprise of an MDF, HDF or chipboard material. Moriau et al. teaches panels 1 substantially comprise of an MDF, HDF or chipboard material as part of a material choice (col. 3, lines 26-37). Therefore, as taught by Moriau et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to substantially make the panels of an MDF, HDF or chipboard material as part of a material selection.

### ***Conclusion***

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Canadian patent, CA-991,373, Swiss patent, CH-562,377, German publication, 67,928,703, European patents, 715,037 and 562,402, French patent, 1,215,852, and US patents, 6,216,409, 5,797,237, 6,647,690, 338,653 and 6,101,778 show a similar fastening system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 703-308-8606. The examiner can normally be reached from 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on 703-308-1159. The fax phone

Art Unit: 3679

numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.



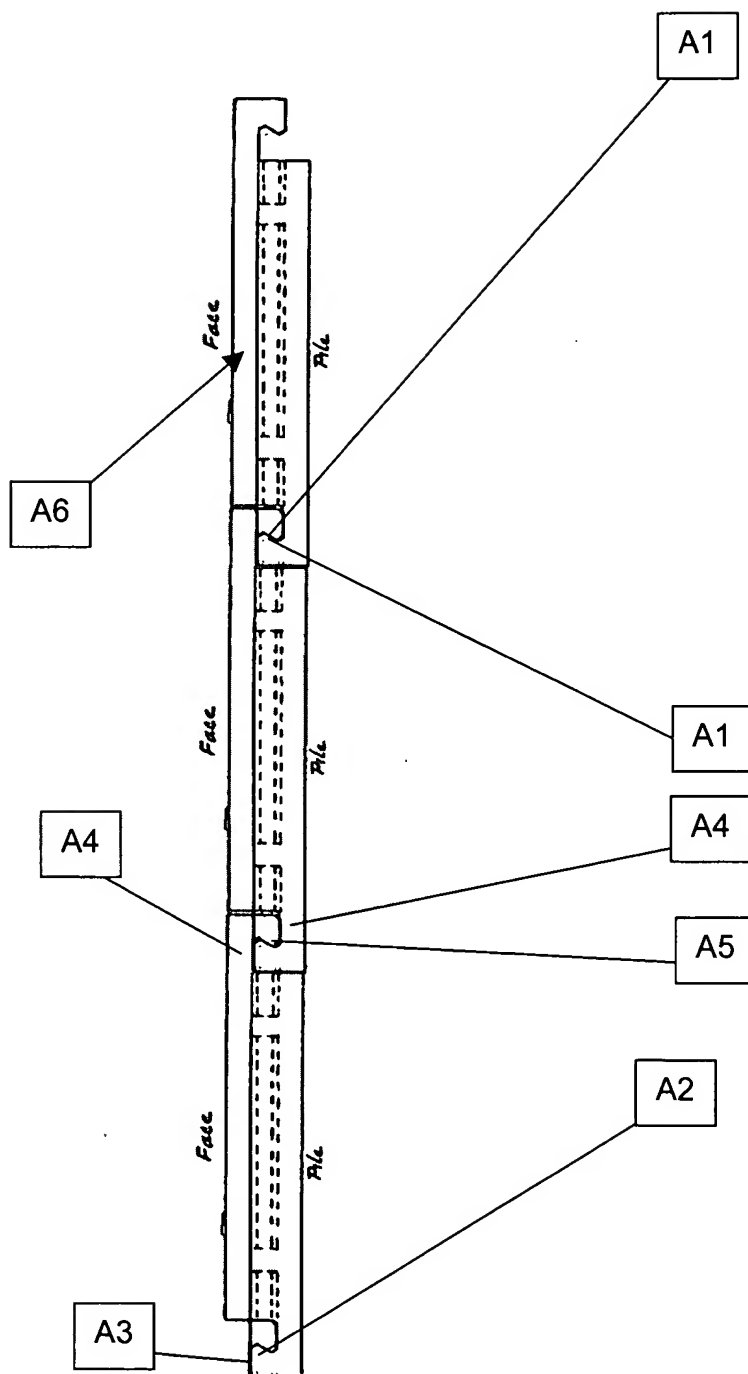
**Lynne H. Browne**  
**Supervisory Patent Examiner**  
**Technology Center 3600**

E.G.

December 1, 2003

Attachments: one marked-up copy of French patent, FR-2,278,876; and,  
one marked-up copy of Moriau et al., 6,006,486.

FR-2,278,876



Art Unit: 3679

6,006,486

